

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DANIEL R. SMITH,)	
)	
Plaintiff,)	Civil Action No. 00-1281
)	
V.)	Judge Arthur J. Schwab
)	Mag. Judge Francis X. Caiazza
SUPERINTENDENT PHILIP L.)	
JOHNSON; PUBLICATION REVIEW)	
COMMITTEE TIM G. COLLINS,)	
)	
Defendants.)	Electronically filed.

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

AND NOW, come the defendants, Johnson and Collins, by their attorneys, Thomas W. Corbett, Jr., Attorney General, Mariah L. Passarelli, Deputy Attorney General, and Susan J. Forney, Chief Deputy Attorney General, Chief Litigation Section and respectfully request that summary judgment be entered in their favor for the following reasons:

1. The pleadings, depositions, answers to interrogatories, and admissions on file, etc. show that there is no genuine issue as to any material fact, pursuant to Fed.R.Civ.Pro. Rule 56(c), concerning Plaintiff's claims.
2. The defendants are entitled to summary judgment as to Plaintiff's claims for monetary damages on the basis of qualified immunity.
3. The defendants are entitled to summary judgment as to Plaintiff's claims for injunctive and declaratory relief because they are now moot.
4. A brief in support is incorporated by reference.
5. The following exhibits have been attached hereto:

- Exhibit 1** Plaintiff's Money Transmittal and Order From for El Libro Montenegro, dated November 18, 1999
- Exhibit 2** Notification of Publications Review Committee re: El Libro Montenegro dated February 18, 2000
- Exhibit 3** Memorandum from Phillip L. Johnson to Plaintiff, dated February 25, 2000
- Exhibit 4** Report of RLUIPA Legislative History
- Exhibit 5** RLUIPA, 42 U.S.C. § 2000cc-1
- Exhibit 6** Declaration of Gregory S. Mohring, dated April 17, 2007
- Exhibit 7** General DOC Memorandum from Jeffrey A. Beard, Ph.D., dated August 13, 1998
- Exhibit 8** Plaintiff's DOC DC-1 Face Sheet
- Exhibit 9** Memorandum from DOC re: Reopening of SCI-Pittsburgh, dated January 3, 2007

Respectfully submitted,

Thomas W. Corbett, Jr.
Attorney General

OFFICE OF ATTORNEY GENERAL
6th Floor, Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

(412) 565-3579

Date: April 18, 2007

BY: /s/ Mariah L. Passarelli
MARIAH L. PASSARELLI
Deputy Attorney General
PA I.D. No. 202469

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief Litigation Section

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **Defendants' Motion for Summary Judgment** was electronically filed with the Court and served upon the following via first-class mail:

DANIEL R. SMITH
BM-1187
SCI-Fayette
P.O. Box 9999
LaBelle, PA 15450-2200

/s/ Mariah L. Passarelli
MARIAH L. PASSARELLI
Deputy Attorney General

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